DOCUMENT RESUME

ED 421 189 JC 980 334

TITLE	Academic Freedom and Tenure: A Faculty Perspective.
INSTITUTION	Academic Senate for California Community Colleges, Sacramento.
PUB DATE	1998-00-00
NOTE	33p.; "Adopted Spring 1998."
PUB TYPE	Reports - Descriptive (141)
EDRS PRICE	MF01/PC02 Plus Postage.
DESCRIPTORS	*Academic Freedom; *Community Colleges; Due Process; *Educational Policy; *Employment Practices; *Faculty College Relationship; Part Time Faculty; *Tenure; Two Year Colleges
IDENTIFIERS	California Community Colleges

ABSTRACT

This paper presents the Academic Senate for California Community Colleges' position in support of academic freedom and tenure. It includes a brief history of academic freedom in the United States, highlighting the American Association of University Professors' fundamental policy statement from 1940. Statements attacking academic freedom and tenure are quoted, and the special situation of part-time and contract faculty is discussed within the context of academic freedom. The paper demonstrates the connection between academic freedom and tenure and due process protections from the point of view of teaching institutions such as community colleges. The paper includes an annotated bibliography of resource materials on academic freedom and tenure and four appendixes of selected academic freedom and tenure policy statements and resolutions. (AS)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED 421 189

JC 980 334

THE ACADEMIC SENATE
For California Community Colleges

Academic Freedom and Tenure: A Faculty Perspective

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
X This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL HAS BEEN GRANTED BY
R.M. Silverman
TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
1

Adopted
Spring 1998

Academic Freedom and Tenure: A Faculty Perspective

The Academic Senate for the California Community Colleges

Adopted Spring 1998

1997 - 98 Educational Policies Committee
Janis Perry, Chair, Santa Ana College
John Nixon, Santa Ana College, CIO Representative
Linda Collins, Los Medanos College
Lin Marelick, Mission College
Richard Rose, Santa Rosa College
Hoke Simpson, Grossmont College
Kathy Sproles, Hartnell College
Chris Storer, De Anza College
David Wilkinson, Santa Barbara College, Student Senate Representative
Ian Walton, Mission College

TABLE OF CONTENTS

Abstract 1

Background 2

History of Academic Freedom and Tenure 4

Current Attacks on Academic Freedom and Tenure 4

Position of the Academic Senate for California Community Colleges on Academic Freedom and Tenure 7

Protection for Part-time Faculty 9

Teaching and Tenure 10

Statutory Authority 12

Conclusions 13

Annotated Bibliography 15

Appendices

1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments

Resolution on Academic freedom and tenure Adopted by the Academic Senate for California Community Colleges Adopted Spring 1986

Sample District Policy on Academic Freedom West Valley-Mission Community College District

N.E.A. Policy Statement

ABSTRACT

This position paper of the Academic Senate for California Community Colleges lays out the Academic Senate's position in support of academic freedom and tenure. It includes a brief history of academic freedom in the United States, starting with the American Association of University Professors' fundamental policy statement from 1940. It demonstrates the connection between academic freedom and tenure and due process protections from the point of view of teaching institutions such as community colleges. In the context of academic freedom it comments on the special situation of part-time and contract faculty. The paper provides an annotated bibliography of resource materials on academic freedom and tenure. The paper also contains recommendations for local senates. The Academic Senate recommends wide distribution of this paper; it would be useful for both full- and part-time faculty as well as for all members of the college community.

BACKGROUND

The Spring 1995 Plenary Session unanimously passed the following resolution:

S95 19.2.0 Tenure

Whereas historically tenure was established to promote academic freedom, consistency of educational programs and philosophies, and

Whereas students benefit from academic freedom and consistency of educational programs and philosophies, and

Whereas the governor and some legislators are proposing the elimination of tenure,

Therefore be it resolved that the Academic Senate for California Community Colleges support the maintenance of tenure, and

Be it further resolved that the Academic Senate for California Community Colleges assert that the maintenance of tenure is essential to student success.

This was followed by three resolutions passed unanimously at the Spring 1996 Plenary Session:

S96 19.4 Academic Freedom and Tenure

Whereas there is evidence that academic freedom and tenure are being challenged in the California Legislature, and

Whereas the AAUP emphasized the need for a statement on academic freedom at various times from 1925 through 1995, and

Whereas because of the financial problems facing community colleges, the Legislature often sees the curtailment of tenure and academic freedom as ways to save money,

Therefore be it resolved that the Academic Senate for California Community Colleges reaffirm our 1986 position on academic freedom and tenure, and

Be it further resolved that the Academic Senate for California Community Colleges direct the Executive Committee to reaffirm our commitment to academic freedom and tenure by developing a current position paper using the AAUP statements and clarifications as appropriate, and

Be it finally resolved that the position paper shall include a discussion of the necessity to extend academic freedom protections to part-time faculty.

S96 19.5 Academic Freedom Statement

Whereas academic freedom is essential to the free search for truth and its free expression, and

Whereas academic freedom is being challenged on many fronts and may be negatively affected by legislation or regulation,

Therefore be it resolved that the Academic Senate for California Community Colleges adopt the "AAUP 1940 statement of Principles of Academic Freedom", Sections (a), (b), (c), and

Be it further resolved that the Academic Senate for California Community Colleges write a position paper on academic freedom that further develops the statement.

S96 19.6 Tenure

Whereas a function of tenure is to maximize the freedom of faculty to provide society with innovative pedagogies, widely disseminated and diverse perspectives on issues and values, and

Whereas this function is widely misunderstood by the public and by the legislature, both locally and nationally,

Therefore be it resolved that the Academic Senate for California Community Colleges wholeheartedly affirm the value and worth of tenure, and direct the Executive Committee to assign the writing of a position paper on tenure to the appropriate committee, and

Be it further resolved that this paper be complemented by an executive summary that would serve as a statement to be distributed to the media.

The purpose of this paper is to review the long history of academic freedom and tenure in the United States and to set this in the current political context of calls for radical change and the abolition of tenure. The paper will provide a statement of the position of the Academic Senate for California Community Colleges on academic freedom and tenure and will examine, in particular, the role of academic freedom and tenure in ensuring excellent teaching in the California community college system. It will also provide a comprehensive resource list on academic freedom and tenure, for use by faculty and local academic senates to support their arguments in this ongoing debate.

HISTORY OF ACADEMIC FREEDOM AND TENURE

Academic freedom and tenure have a long history in education in the United States. Some highlights are as follows:

1925	Principles set forth in the Conference Statement on Academic Freedom and Tenure.
1934	Series of Joint Conferences begin with American Association of University Professors (AAUP) and Association of American Colleges.
1940	Statement of Principles on Academic Freedom and Tenure issued by AAUP (See Appendix 1).
1940	Interpretations of Statement of Principles agreed upon.
1966	AAUP statement of professional ethics adopted.
1970	Revised Interpretations of Statement of Principles adopted.
1986	Resolution on Tenure/Academic Freedom adopted by the Academic Senate for California Community Colleges (See appendix 2).
1986	National Education Association (NEA) adopts current statement on Academic and Intellectual Freedom and Tenure in Higher Education (See Appendix 4).
1995	AAUP Statement of Principles lists 156 organizations that have adopted it.

The 1940 AAUP statement on academic freedom and tenure remains the most cogent and the most complete statement on the central importance of tenure in the academic enterprise. It has been adopted in whole or in part by a large number of organizations. Most arguments in the current debate still refer back to these fundamental ideas. It is included in this position paper as Appendix 1.

CURRENT ATTACKS ON ACADEMIC FREEDOM AND TENURE

The current political climate has led to a growing number of attacks on academic freedom and tenure in the past few years. Many of these attacks seem to stem from a basic misunderstanding of both the purpose and the past history of academic freedom and tenure.

Wendy Wassyng Roworth, chair of the AAUP Task Force on Tenure, states in "Why is Tenure Being Targeted for Attack?" (1998):

> The subject of faculty tenure has become one of the most hotly contested issues in higher education. The system of tenure has been questioned in the past, but during the last few years these attacks have escalated.
>
> Others claim that tenure shelters incompetent teachers and that it prevents the flexibility needed to make cutbacks in response to shrinking budgets.

Roworth then highlights the critical role that tenure plays in defending academic freedom when she responds that this negative attitude results from the fact that:

> Critics of tenure simply do not understand the purpose of tenure: how difficult it is for faculty to achieve tenured status; the actual percentage of faculty who hold tenured positions; and how often they are evaluated throughout their careers. Nor do they appreciate tenure's fundamental purpose as a safeguard for academic freedom, the fact that tenure does not prevent the removal of incompetent faculty so long as appropriate procedures are followed, nor how tenure plays a major role in ensuring high standards for teaching and research in colleges and universities.

Philo Hutcheson (1998) of Georgia State University adds to that argument in his article "Faculty Tenure: Myth and Reality 1974 to 1992" when he states that:

> Tenure is not an ultimate assurance of job security, despite charges that it is nothing but a sinecure. According to the 1988 National Center for Educational Statistics report, two percent of all tenured faculty who left their institutions lost their positions because of removal for cause or retrenchment.

This lack of understanding of the relationship between academic freedom and tenure leads to erroneous comparisons with expectations in the business world. These usually ignore the traditional tradeoff between freedom and security in the academic world versus entrepreneurship and the chance for great economic advantage in industry.

Jon Wiener in his Winter 1998 Dissent article, "Tenure Trouble," makes the following observation:

> Why should college and university professors have job security, when so many other Americans are losing theirs? From US News and World Report to the Los Angeles Times to the Washington Post, powerful voices are asking that question, and answering that tenure in academia has become obsolete. The academy, they argue, should submit to the logic of the market.

Similarly in the article "Tenure" in the National Education Update, the author remarks:

> In an era of corporate downsizing and institutional re-engineering, tenure seems anachronistic to outside observers. These tensions threaten the tradition of academic freedom and tenure.

In "The Assault on Faculty Independence," Matthew Finkin (1997) quotes Peter Byrne of the Georgetown Law School who points out that the issue is much broader in nature and is not simply about economics:

> The debate about tenure is a debate about power...opponents of tenure want administrators to have more power to deploy faculty as academic assets...to obtain greater benefits for students and society at lower cost. Defenders of tenure believe that faculty who have proven their professional competence should enjoy a measure of independence and dissent from the projects of administrators and regents, and from the preferences of students or of the public. This view depends on an understanding of the nature of scholarship and teaching, that it thrives in a context of free and mature academic judgment.

The University of Minnesota recently had a bitter debate about tenure with the regents proposing substantial change and reduction in protection while the academic senate vigorously responded. University President Nils Hasselmo (quoted in Wiener's 1998 Dissent article) said after final approval of a tenure code by the university regents:

> It builds credibility with society that tenure is a very good thing. It is not protection for poor performance, nor is it an obstacle to necessary change.

Ed Schuh, dean of the Hubert Humphrey Institute of Public Affairs, (also quoted Wiener's 1998 Dissent article) highlights that the very reputation and credibility of our educational institutions are at stake in the debate over tenure:

> You need tenure not so much to protect individual faculty members, but to protect the integrity of the university. Society needs to know that I'm not forced to lie as a scientist or as a researcher in order to keep my job.

Van Alstyne (1971) in "Tenure: A Summary, Explanation, and 'Defense' ", comments not only on the importance of tenure in protecting academic freedom, but on the major role played by peer review. Quoting from resolutions adopted by the 1971 Annual Meeting of the AAUP he says:

> Tenure is the foundation of intellectual freedom in American colleges and universities and has important but frequently overlooked benefits for society at large. Basically tenure insures that faculty members will not be dismissed without adequate cause and without due process. From the long list of academic freedom and tenure cases with which the AAUP has been confronted, it is evident that many good teachers and scholars have been arbitrarily dismissed without the protection of tenure. In the absence of a manifestly more effective means for safeguarding intellectual freedom, attacks on tenure are irresponsible.
>
> Full academic due process locates the fulcrum of responsibility to determine in the first instance whether the tenured professor's work is professionally defensible, in those with whom the risk of abuse may least dangerously be placed, namely, his professional peers.

AAUP guidelines (1940) also emphasize the professional responsibility that goes along with academic freedom:

> College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.

Even the much quoted logic of the marketplace seems to support tenure. After Bennington College in Vermont abolished tenure in 1995 and placed faculty on rolling contracts, student enrollment plunged below levels required for ongoing financial liability and the college's bond rating was downgraded.

Recent efforts by national faculty organizations have provided a coherent and readily accessible body of materials for use in campaigns to protect academic freedom and promote tenure as a central component of academic organization. The NEA maintains a listserve to connect faculty leaders working to promote academic freedom and tenure. Both the AAUP and the NEA have extensive materials on academic freedom and tenure readily available by mail and on their website. The AAUP currently offers an organized network of faculty devoted to assisting local and state faculty organizations in dealing with their boards, administrations and legislators regarding assaults on academic freedom and tenure.

POSITION OF THE ACADEMIC SENATE FOR CALIFORNIA COMMUNITY COLLEGES ON ACADEMIC FREEDOM AND TENURE

There are several interrelated and critical components of academic freedom that must be addressed in the community college system with regard to the centrality of tenure and academic freedom in the teaching mission. Academic freedom is an irreplaceable part of the student learning experience in the California Community Colleges. It allows freedom of inquiry for both student and instructor in the classroom. Without that freedom the quality of student learning would be seriously diminished. An integral part of that freedom is the protection afforded by tenure and the associated due process rights of the instructor. The following points are fundamental in this complex relationship:

- The freedom of all faculty to inquire, to teach controversial content, to model and encourage critical thinking, and to present all viewpoints in the teaching and learning process can only be guaranteed by the historical practice of earned tenure.

- Correspondingly, the freedom of all students to inquire, have access to the full range of information available, to explore difficult and controversial material, to develop and practice critical thinking skills, to operate in a classroom climate free of intimidation and censorship must be similarly guaranteed by the protections from constraint embodied in a tenured faculty.

- Due process rights and peer review are crucial to the success of any responsible system that balances educational inquiry with professional accountability. Due process protects the freedom of the instructor to teach and to conduct research without the fear of retaliation. On the other hand, peer review combined with due process provides a clear process for the improvement of unsatisfactory performance or termination for cause.

- Faculty rights to give and student rights to receive grades free from political influence, business-oriented productivity standards or threat of lawsuit are secured by the institutional process of earned tenure with its due process protections.

- Faculty ability to participate effectively in the historical exercise of collegial governance free of intimidation, harassment, or retaliation is only possible in a tenured environment. The diffuse nature of expertise and the need for thorough deliberation of curricular and pedagogical questions make collegial governance essential for effective management of institutions of higher learning. This is fundamentally different from the structure, goals, and modes of operation in the business world. Such academic governance systems can operate only in a climate of professional integrity and independence guaranteed by due process protections.

- Collegial governance can only be safeguarded in a system founded upon independence of inquiry and open deliberation on the mission and goals of the college and the allocation of resources to achieve those goals. Without free debate on mission and resources, independence of inquiry can be stifled. The right and ability of faculty members to criticize and question openly the operations of their college and district depends on their tenured status. This includes the right to critique both the pronouncements and the actions of elected or appointed boards, district and college administrators, as well as one's faculty colleagues. Without these protections for the whole college environment, the quality of education for the student is degraded.

- The willingness to take risks in the assignment of textbooks, student learning activities and honest feedback to students requires insulation from the threat of suit and political or personal attack. Both students and faculty need the opportunity to take risks in a supportive environment. The ability of administrators to make common cause with faculty in responsible and accountable partnerships in higher education is in fact also dependent on the ability of faculty to raise questions and question assumptions about practices enshrined or supported by higher authorities.

- The ability of the academic community to effectively participate in the historical dialogues of knowledge, and thus lead and engage students in those cumulative and diverse discourses across and between historical cultures is dependent on their relative freedom from and creative tension with popular fads and fashions, political movements and power centers, and unreasonable fiscal contractions and constraints. This is only possible in a community in which respect for intellectual honesty is concretely grounded in the protections of due process.

- The ability of faculty to teach and model for students appropriate ethical reasoning and professional responsibilities in occupational and academic contexts can only be guaranteed when those developing and teaching educational programs themselves are able to model fearless criticism and the ability to question regardless of the political and economic consequences of following a line of reasoning. This is increasingly true in an era and climate wherein the interweaving of public and private partnerships is seen as a necessary and desirable response to fiscal constraints in higher education. Tenure provides the necessary counterweight to the consequent impact of profit motives on academic outcomes and deliberations. Tenure is the context in which it is possible to help students develop the independent habit of mind necessary to be contributing members of a democratic society and an increasingly complex and information based economy.

- Academic freedom continually needs protection. There are repeated examples of political purges and pressure to prevent the teaching of unpopular ideas, for example: opposition to World War I, the excesses of the McCarthy era, dissent from the Vietnam or Gulf wars, and the civil rights movement. More recently there has been continued contention over "'campus speech codes' and 'political correctness,' limitations initiated by church-related colleges and universities, and subpoenaed research information" (Poch, 1994). More recently, politically conservative professors have claimed that they, too, need the protection of tenure in colleges and universities which they perceive as politically liberal. Faculty have been asked to suppress, not publish, or not even discuss, certain research findings because of contracts between their institutions and private business (Poch, 1994). The specific causes change, but the need to speak out and the requirement to protect free thought and speech do not change.

PROTECTION FOR PART-TIME FACULTY

It is important that part-time faculty are guaranteed academic freedom. It is the duty of full-time tenured faculty to inform new faculty of their academic freedom rights and to use their tenured status to protect their part-time colleagues from any attack on their academic freedom. Tenured faculty must speak out on behalf of part-time instructors. This responsibility becomes increasingly important as the number of part-time faculty grows.

In his Dissent article, Wiener notes:

> Administrators everywhere are quietly hiring more and more temporary, and part-time adjuncts, instructors and lecturers who will never have a chance to earn tenure. The dirty little secret of the tenure system today is how many college teachers are denied its protections.

This lack of protection causes problems in collegial governance because part-time faculty serving on committees are vulnerable to pressure and may not feel able to argue the collective faculty position to benefit students, particularly if it requires opposing the viewpoints of administrators, department chairs or other faculty involved in employment and evaluation decisions.

The California Community College system has worked very hard, through the establishment of minimum qualifications, equivalency and hiring processes, to ensure that part-time faculty are just as well qualified as full-time faculty. The intent is to ensure a uniformly excellent classroom environment for all students. This goal of educational quality is undermined if part-time faculty's academic freedom is not protected.

Another way to extend this protection to vulnerable part time and probationary faculty is to ensure that districts adopt academic freedom policies that include part-time faculty as well as full-time faculty. This can be done by including language such as the following contained in the West Valley-Mission Community College District Academic Freedom policy (see Appendix 3):

> Such freedom shall be recognized as a right of all members of the faculty, whether of tenure or non-tenure rank, of all administrative officers and of all students.

Academic freedom protections for all faculty, full-time, part-time and contract (non-tenured), are necessary to ensure that the quality of education that community college students receive is beyond reproach. This is especially important when considering the relationship with University of California and California State University faculty and their confidence in receiving transfer course work taught by all community college faculty.

TEACHING AND TENURE

In most universities, academic freedom and tenure are particularly associated with the research function. In the California Community College system it is important to emphasize that academic freedom and tenure are equally important to the teaching mission and therefore to the education of students. One of the measures included in the Community College reform legislation, AB 1725, was the increase of the probationary period for tenure from the previous two years to four years. The lengthened tenure process brings the California Community Colleges closer in line with other institutions of higher education. Tenure in the community college is a necessary condition of teaching excellence.

In his 1998 article "Improving Teaching: Tenure is not the Problem, It's the Solution", Ernst Benjamin, Associate General Secretary and Director of Research at AAUP, comments that:

> The current attack on tenure grew out of public dissatisfaction with the declining opportunity for students to study with full-time, tenure-track faculty.

His article provides data that shows that tenure is not the source of the problem. Rather he argues that the problem is caused by the unwillingness to adequately fund public sector higher education since the fiscal crisis of the early 1970s. He reports a rise in student to faculty ratios, and in particular student to full-time faculty ratios in the community colleges. He also cites the long-term problem of relative decline in faculty salaries. In conclusion he observes those who:

> . . . complain about the quality of public higher education, and those who can afford it seek the more selective institutions, and blame tenure for both the lack of access to good teaching and the increase in higher education costs. Plainly it is not to blame for either. ... But since it is 'unrealistic' to speak of increased funding, the 'realists' blame the specter of tenure. Perhaps, however, we should designate as the true realists those most sophisticated consumers who quietly spend three to six times as much for selective, independent institutions. In higher education, as elsewhere, you get no more than you pay for.

In the case of the California Community Colleges, the problem of underfunding is even more apparent: California has a much lower than average funding figure: 1993-94 per FTE student average funding level of $3554 in California compared to the national average of $6022, (California Community Colleges Chancellor's Office, "2005, 1998). Faculty and students are also impacted by a higher than average faculty teaching load: 16.7 hours/week in California, compared to the average in other states of 14.7 hours/week in 1992-93, and a larger than average class size: 28.2 in California, compared to 17.9 in other states in 1992-93, (California Community Colleges Chancellor's Office, "Funding Patterns," 1997).

It is probably impossible to catalogue or anticipate all of the potential threats to academic freedom which can arise in community based teaching organizations such as community colleges. The possible intrusion of social and political pressures on the teaching and learning process is ever present in teaching institutions. Particularly sensitive in the current context are issues related to polarized political topics such as sexuality or evolution. Such tension is one of the most compelling reasons why establishing clear board policies on academic freedom is important in each local district.

Of course, pressure on grades is also exceptionally important. There have been numerous instances of pressure on faculty to change grades because of complaints of students or parents. The threat of lawsuit appears to be increasingly commonplace. A recent New York Times article, "High Schools Fear Telling Colleges All About Johnny," cites increasing parental pressure on high

school counselors and administrators regarding nongrade information on transcripts, college recommendations, and use of the 1974 Family Educational Rights and Privacy Act (or Buckley Amendment) as a basis to withhold any mention of disciplinary actions.

Historically, AAUP materials and examples have tended to focus on four-year college and university contexts more than on two year teaching institutions. However, the AAUP guidelines make it clear that academic freedom issues related to research and publication do not eclipse the centrality of academic freedom protections for the classroom.

STATUTORY AUTHORITY

The relation between tenure and academic freedom is recognized in AB1725:

> The tenure system is an important prerequisite for the maintenance of academic freedom, continuity in academic and vocational programs, and development of a faculty committed to the long-term health of the community colleges. At the same time, the tenure system is a central part of the governance of the colleges . . . (AB1725 Section 4 (k)(1))

Title 5 Regulations also refers to academic freedom. Section 51023 requires a policy statement on academic freedom:

> The governing board of a community college district shall adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor.

In addition, having an academic freedom policy is a requirement for accreditation. Standard Two, Institutional Integrity, of the Western Association of Schools and Colleges accreditation standards states that colleges are required to adopt an academic freedom policy:

> The institution has a readily available governing board-adopted policy protecting academic freedom and responsibility which states the institutional commitment to the free pursuit and dissemination of knowledge and fosters the integrity of the teaching-learning process.

In the larger context, there are various Federal court rulings on academic freedom. These generally recognize that there are special rights of academic freedom that go beyond more general First Amendment rights. In the 1957 *Sweezy* case, the Supreme Court ruled in favor of a faculty member who had been jailed for contempt of court when he refused to cooperate in an investigation of subversive activities and to answer questions about classroom discussions. In Sweezy, Chief Justice Warren asserted:

> Teachers and students must always remain free to inquire, to study, and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die (*Sweezy v. New Hampshire*, 354 U.S. 234, cited in Grosz, 1991, p. 8-9).

The case generally considered the landmark in the area of academic freedom of speech is *Pickering v. Board of Education* (391 U.S. 563, 1968). Here, the Supreme Court reversed lower court rulings regarding the school board's right to dismiss a faculty member over public criticism of administrative fund raising activities. The Court decided:

> " . . . it is essential that [teachers] be able to speak out freely on such questions without fear of retaliatory dismissal . . . ." (cited in Grosz, 1991, pp. 9-10).

However, the Court implied that had Pickering made inaccurate comments "knowingly or recklessly," there might have been a different ruling. The Court implied that so long as the criticism is honest and intended to inform debate, rather than disrupt operations, the teacher's full freedom of speech is to be upheld (Grosz, 1991, p.10).

CONCLUSIONS

Position of the Academic Senate for California Community Colleges on Academic Freedom and Tenure

While it traditionally has been the position of the Academic Senate for California Community Colleges to endorse the "AAUP 1940 statement of Principles of Academic Freedom," Sections (a), (b), (c), and to support academic freedom for all faculty, this paper identifies a more detailed position.

In addition, the following are recommendations to local academic senates:

1. Each local academic senate should ensure that their district has adopted an effective board policy on academic freedom.

2. Each local academic senate should maintain vigilant support of academic freedom for all individuals but particularly for those without the protection afforded by tenure.

3. Each local academic senate should in collaboration with their collective bargaining agent in those districts with an exclusive representative, work to ensure effective due process provisions to protect academic freedom for all faculty.

4. Each local academic senate should ensure that faculty, administrators, staff, students, and board members are aware of the rights and expectations of academic freedom.

5. Each local academic senate should ensure that tenured faculty are prepared to actively defend the academic freedom of their non-tenured colleagues and of their students.

ANNOTATED BIBLIOGRAPHY

"AB 1725, Indexed Version," Ventura County Federation of Community College Teachers, March 1990. (An indexed version of Vasconcellos AB 1725, California community college reform bill.)

Academic Senate for the California Community Colleges, "Faculty Ethics: Expanding the AAUP Ethics Statement," Position Paper April 1994. (Contains a section on maintaining academic freedom.)

Academic Senate for the California Community Colleges, "Part-Time Faculty in the California Community Colleges," Position Paper, November 1992. (Contains a section on academic quality and equal treatment. Available at http://www.academicsenate.cc.ca.us.)

American Association of University Professors, "1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretative Comments." (The definitive statement on academic freedom and tenure, adopted by many organizations of higher education. Available March 1998 at http://www.aaup.org/1940stat.htm.)

American Association of University Professors, "Defending Tenure: A Guide for Friends of Academic Freedom,"1998. (A compilation of statistics, arguments, articles, bibliography and case studies. Available from AAUP, 1012 Fourteenth St. NW Suite #500, Washington, DC 20005.)

American Association of University Professors, "Policy Documents and Reports," Washington, D.C., 1995. (Comments and documents on freedom of teaching and research.)

American Association of University Professors, "On Freedom of Expression and Campus Speech Codes," adopted by AAUP Council, November 1994. (Examples of how to set policies which affect behavior rather than control speech. Available at http://www.AAUP.org.)

American Association of University Professors, "Recommended Institutional Regulations on Academic Freedom and Tenure,"1957, revised in 1982 and with footnote added in 1990. (Sample regulations designed to enable a given college or university "to protect academic freedom and tenure and to ensure academic due process." Available March 1998 at http://www.aaup.org.)

American Association of University Professors, "Academic Freedom and Electronic Communications," report prepared by subcommittee of Committee on Academic Freedom and Tenure, February 1998. (This paper discussed the adaptation of principles of academic freedom in the context of new media. Available at http://www.aaup.org.)

Benjamin, Ernst, "Some Implications of Tenure for the Profession and Society," AAUP, January 98. (An article that describes the effects of tenure on recruitment and the implications for professional integrity. Available March 1998 on the world wide web at http://www.aaup.org/ebten2.htm.)

Benjamin, Ernst, "Improving Teaching: Tenure is not the Problem, It's the Solution," AAUP, January 1998. (An article that cites statistics on faculty productivity and declining public funding to explain the problems in teaching. Available March 1998 on the world wide web at http://www.aaup.org/fnebwart.htm.)

Benjamin, Ernst and Donald Wagner, "Academic Freedom: An Everyday Concern," New Directions for Higher Education, Winter 1994. (Discusses academic freedom as a requirement of professional autonomy to assure integrity.)

Brewster, Kingman, "On Tenure,"AAUP Bulletin, Winter 1972.
(An elaboration of the contribution of academic freedom and tenure to the common good.)

California Community Colleges Chancellor's Office, 2005, Report of the Task Force for the Chancellor's Consultation Council, September 1997. (A vision statement for the California Community College system that includes much interesting trend data on faculty and funding levels.)

California Community Colleges Chancellor's Office, Policy Analysis and Management Information Services Division, Funding Patterns in California Community Colleges: A Technical Paper for the 2005 Task Force of the Chancellor's Consultation Council, November 1997. (Backup technical data for the 2005 report prepared by the California Community Colleges Chancellor's Office.)

Chait, Richard P., "The Future of Academic Tenure," A.G.B. Priorities, Number 3, Spring 1995.
(A criticism of tenure including survey data that its abolition would improve higher education.)

Chait, Richard P., "A Scholar Provides an Intellectual Framework for Plans to End or Revamp Tenure Systems," Chronicle of Higher Education, February 14, 1997. (An article describing alternatives to tenure. Chait holds a tenured position at Harvard School of Education.)

Finkin, Matthew, "The Assault on Faculty Independence,"Academe, AAUP, October 1997.
(An article presenting six myths used by opponents of tenure and arguments for their rebuttal. Available March 1998 at http://www.aaup.org/fnmfart.htm. Finkin is Professor of Law at University of Illinojs, Champaign-Urbana.)

Finkin, Matthew, The Case for Tenure, Cornell, 1996.
(Finkin is editor of this collection of material on tenure. It sets out an extensive set of arguments in favor of tenure.)

Grosz, Karen S., "Political Correctness and First Amendment Right to Freedom of Speech," unpublished monograph, Presented at A.S.C.C.C. Plenary Session, 1991.
(This Grosz monograph addresses a particular case at Santa Monica College involving charges of "political correctness" which arose in a dispute over multicultural curriculum materials. It provides an overview of legal status of academic freedom and relevant court cases.)

"High Schools Fear Telling Colleges All About Johnny," New York Times, March 11, 1998. (An article that discusses external pressures for grade and transcript changes.)

Hutcheson, Philo, "Faculty Tenure: Myth and Reality 1974 to 1992," The N.E.A. Higher Education Journal, Spring 1996. (Considerable long-term data on trends in tenure. Available March 1998 at nea.org/he/heupdate. Hutcheson is assistant professor of educational policy studies at Georgia State University.)

Jones, Howard Mumford, "The American Concept of Academic Freedom," AAUP Bulletin, Spring 1960. (The importance of professional independence in competent performance.)

Kasper, Hirschel, "On Understanding the Rise in Non-Tenure-Track Appointments," Princeton University Working Paper #211, August 1986. (An article detailing the effect of oversupply of candidates for academic jobs.)

Kolodny, Annette, "Tenure," Chronicle of Higher Education, March 22, 1996. (An article arguing that dismantling tenure diminishes the academic opportunities available for those entering academe.)

Magner, Denise, "Faculty Attitudes and Characteristics: Results of a 1995-96 Survey," Chronicle of Higher Education, September 13, 1996. (An article including survey data that some faculty believe tenure is an outmoded concept while a majority thought it was a necessity.)

McGrath, Peter C., "Eliminating Tenure without Destroying Academic Freedom," Chronicle of Higher Education, February 28, 1997. (An article proposing post-tenure review. McGrath is President of the National Association of State Universities and Land Grant Colleges.)

National Education Association Policy Statement, "Academic and Intellectual Freedom and Tenure in Higher Education." (The official N.E.A. policy statement on academic freedom and tenure. Available March 1998 on the world wide web at http://www.nea.org/he/truth.html.)

National Education Association Policy Statement, "The Truth about Tenure in Higher Education." (This online brochure deals with myths and facts about tenure. Available March 1998 on the world wide web at http://www.nea.org/he/policy.html.)

National Education Association Policy Statement, "A Resource Page on Tenure." (This page provides links to various resources on tenure. Available March 1998 at http://www.nea.org/he/heupdate.)

Perley, James E., "Tenure Remains Vital to Academic Freedom," Chronicle of Higher Education, April 4, 1997. (A rebuttal of many of the current arguments against tenure. Perley is President of AAUP. Available March 1998 at http://www.aaup.org/jeped44.htm.)

Poch, Robert K., "Academic Freedom in American Higher Education: Rights, Responsibilities, and Limitations," ED366262, ERIC Digest, January 94. (Includes discussion of issues of dissent and academic freedom.)

Roworth, Wendy Wassyng, "Why is Tenure being Targeted for Attack?", AAUP, 1998.
(An article discussing the current climate of applying business metaphors to education and using them to attack tenure. Rowarth is professor of art history at University Island and chair of the AAUP task force on Tenure. Available March 1998 on the world wide web at http://www.aaup.org/fnwrwart.htm.)

"Tenure", National Education Association Update, September 1995.
(A national overview of patterns of tenure. Available March 1998 on the world wide web at http://www.nea.org/he/heupdate.)

Van Alstyne, William, "Tenure: A Summary, Explanation, and 'Defense' ", AAUP Bulletin, Summer, 1971. (This classic statement by a former General Counsel and Chair of the Committee on Academic Freedom and Tenure of the AAUP is frequently cited as an authoritative statement on the relationship of tenure to academic freedom. It contains also a special postscript on the academic freedom on non-tenured faculty.)

Wiener, Jon, "Tenure Trouble," Dissent, Winter 1998. (An article that makes many effective arguments for tenure. Wiener is a contributing editor of The Nation and teaches at U.C. Irvine.)

APPENDIX 1

1940 Statement of Principles on Academic Freedom and Tenure With 1970 Interpretive Comments

American Association of University Professors
1012 Fourteenth Street, NW, Suite #500
Washington, DC 20005
(800) 424-2973

In 1940, following a series of joint conferences begun in 1934, representatives of the American Association of University Professors and of the Association of American Colleges agreed upon a restatement of principles set forth in the 1925 Conference Statement on Academic Freedom and Tenure. This restatement is known to the profession as the 1940 Statement of Principles on Academic Freedom and Tenure.

The 1940 Statement is printed below, followed by Interpretive Comments as developed by representatives of the American Association of University Professors and the Association of American Colleges during 1969. The governing bodies of the associations, meeting respectively in November 1989 and January 1990, adopted several changes in language in order to remove gender-specific references from the original text.

The purpose of this statement is to promote public understanding and support of academic freedom and tenure and agreement upon procedures to assure them in colleges and universities. Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher (The word ""teacher" as used in this document is understood to include the investigator who is attached to an academic institution without teaching duties) or the institution as a whole. The common good depends upon the free search for truth and its free exposition.

Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning. It carries with it duties correlative with rights.[1](numbers in square brackets refer to Interpretive Comments which follow.)

Tenure is a means to certain ends; specifically: (1) freedom of teaching and research and of extramural activities, and (2) a sufficient degree of economic security to make the profession attractive to men and women of ability. Freedom and economic security, hence, tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.

ACADEMIC FREEDOM

a. Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.

b. Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject.[2] Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.[3]

c. College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but

their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.[4]

ACADEMIC TENURE

After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies.

In the interpretation of this principle it is understood that the following represents acceptable academic practice:

1. The precise terms and conditions of every appointment should be stated in writing and be in the possession of both institution and teacher before the appointment is consummated.

2. Beginning with appointment to the rank of full-time instructor or a higher rank, [5] the probationary period should not exceed seven years, including within this period full-time service in all institutions of higher education; but subject to the proviso that when, after a term of probationary service of more than three years in one or more institutions, a teacher is called to another institution it may be agreed in writing that the new appointment is for a probationary period of not more than four years, even though thereby the person's total probationary period in the academic profession is extended beyond the normal maximum of seven years. [6] Notice should be given at least one year prior to the expiration of the probationary period if the teacher is not to be continued in service after the expiration of that period.[7]

3. During the probationary period a teacher should have the academic freedom that all other members of the faculty have.[8]

4. Termination for cause of a continuous appointment, or the dismissal for cause of a teacher previous to the expiration of a term appointment, should, if possible, be considered by both a faculty committee and the governing board of the institution. In all cases where the facts are in dispute, the accused teacher should be informed before the hearing in writing of the charges and should have the opportunity to be heard in his or her own defense by all bodies that pass judgment upon the case. The teacher should be permitted to be accompanied by an advisor of his or her own choosing who may act as counsel. There should be a full stenographic record of the hearing available to the parties concerned. In the hearing of charges of incompetence the testimony should include that of teachers and other scholars, either from the teacher's own or from other institutions. Teachers on continuous appointment who are dismissed for reasons not involving moral turpitude should receive their salaries for at least a year from the date of notification of dismissal whether or not they are continued in their duties at the institution.[9]

5. Termination of a continuous appointment because of financial exigency should be demonstrably bona fide.

1940 INTERPRETATIONS

At the conference of representatives of the American Association of University Professors and of the Association of American Colleges on November 7-8,1940, the following interpretations of the 1940 Statement of Principles on Academic Freedom and Tenure were agreed upon:

1. That its operation should not be retroactive.

2. That all tenure claims of teachers appointed prior to the endorsement should be determined in accordance with the principles set forth in the 1925 Conference Statement on Academic Freedom and Tenure.

3. If the administration of a college or university feels that a teacher has not observed the admonitions of

paragraph (c) of the section on Academic Freedom and believes that the extramural utterances of the teacher have been such as to raise grave doubts concerning the teacher's fitness for his or her position, it may proceed to file charges under paragraph (a)(4) of the section on Academic Tenure. In pressing such charges the administration should remember that teachers are citizens and should be accorded the freedom of citizens. In such cases the administration must assume full responsibility, and the American Association of University Professors and the Association of American Colleges are free to make an investigation.

1970 INTERPRETIVE COMMENTS

Following extensive discussions on the 1940 Statement of Principles on Academic Freedom and Tenure with leading educational associations and with individual faculty members and administrators, a joint committee of the AAUP and the Association of American Colleges met during 1969 to reevaluate this key policy statement. On the basis of the comments received, and the discussions that ensued, the joint committee felt the preferable approach was to formulate interpretations of the Statement in terms of the experience gained in implementing and applying the Statement for over thirty years and of adapting it to current needs.

The committee submitted to the two associations for their consideration the following "Interpretive Comments." These interpretations were adopted by the Council of the American Association of University Professors in April 1970 and endorsed by the Fifty-sixth Annual Meeting as Association policy.

In the thirty years since their promulgation, the principles of the 1940 Statement of Principles on Academic Freedom and Tenure have undergone a substantial amount of refinement. This has evolved through a variety of processes, including customary acceptance, understandings mutually arrived at between institutions and professors or their representatives, investigations and reports by the American Association of University Professors, and formulations of statements by that association either alone or in conjunction with the Association of American Colleges. These comments represent the attempt of the two associations, as the original sponsors of the 1940 Statement, to formulate the most important of these refinements. Their incorporation here as Interpretive Comments is based upon the premise that the 1940 Statement is not a static code but a fundamental document designed to set a framework of norms to guide adaptations to changing times and circumstances.

Also, there have been relevant developments in the law itself reflecting a growing insistence by the courts on due process within the academic community which parallels the essential concepts of the 1940 Statement; particularly relevant is the identification by the Supreme Court of academic freedom as a right protected by the First Amendment. As the Supreme Court said in Keyishian v. Board of Regents 385 U.S. 589 (1967), "Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom."

The numbers refer to the designated portion of the 1940 Statement on which interpretive comment is made.

1. The Association of American Colleges and the American Association of University Professors have long recognized that membership in the academic profession carries with it special responsibilities. Both associations either separately or jointly have consistently affirmed these responsibilities in major policy statements, providing guidance to professors in their utterances as citizens, in the exercise of their responsibilities to the institution and to students, and in their conduct when resigning from their institution or when undertaking government-sponsored research. Of particular relevance is the Statement on Professional Ethics, adopted in 1966 as Association policy. (A revision, adopted in 1987, was published in Academe: Bulletin of the AAUP 73 [July-August 1987]: 49.)

2. The intent of this statement is not to discourage what is "controversial." Controversy is at the heart of the free academic inquiry which the entire statement is designed to foster. The passage serves to underscore the need for teachers to avoid persistently intruding material which has no relation to their subject.

3. Most church-related institutions no longer need or desire the departure from the principle of academic freedom implied in the 1940 Statement, and we do not now endorse such a departure.

4. This paragraph is the subject of an interpretation adopted by the sponsors of the 1940 Statement immediately following its endorsement which reads as follows:

If the administration of a college or university feels that a teacher has not observed the admonitions of paragraph (c) of the section on Academic Freedom and believes that the extramural utterances of the teacher have been such as to raise grave doubts concerning the teacher's fitness for his or her position, it may proceed to file charges under paragraph (a)(4) of the section on Academic Tenure. In pressing such charges the administration should remember that teachers are citizens and should be accorded the freedom of citizens. In such cases the administration must assume full responsibility, and the American Association of University Professors and the Association of American Colleges are free to make an investigation.

Paragraph (c) of the 1940 Statement should also be interpreted in keeping with the 1964 "Committee A Statement on Extramural Utterances" (AAUP Bulletin 51 [1965]: 29), which states inter alia: "The controlling principle is that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness for his or her position. Extramural utterances rarely bear upon the faculty member's fitness for the position. Moreover, a final decision should take into account the faculty member's entire record as a teacher and scholar."

Paragraph V of the Statement on Professional Ethics also deals with the nature of the "special obligations" of the teacher. The paragraph reads as follows:

> As members of their community, professors have the rights and obligations of other citizens. Professors measure the urgency of other obligations in the light of their responsibilities to their subject, to their students, to their profession, and to their institution. When they speak or act as private persons they avoid creating the impression of speaking or acting for their college or university. As citizens engaged in a profession that depends upon freedom for its health and integrity, professors have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

Both the protection of academic freedom and the requirements of academic responsibility apply not only to the full-time probationary as well as to the tenured teacher, but also to all others, such as part-time faculty and teaching assistants, who exercise teaching responsibilities.

5. The concept of "rank of full-time instructor or a higher rank" is intended to include any person who teaches a full-time load regardless of the teacher's specific title. (For a discussion of this question, see the "Report of the Special Committee on Academic Personnel Ineligible for Tenure," AAUP Bulletin 52 [1966]: 280-82.)

6. In calling for an agreement "in writing" on the amount of credit for a faculty member's prior service at other institutions, the Statement furthers the general policy of full understanding by the professor of the terms and conditions of the appointment. It does not necessarily follow that a professor's tenure rights have been violated because of the absence of a written agreement on this matter. Nonetheless, especially because of the variation in permissible institutional practices, a written understanding concerning these matters at the time of appointment is particularly appropriate and advantageous to both the individual and the institution. (For a more detailed statement on this question, see "On Crediting Prior Service Elsewhere as Part of the Probationary Period," AAUP Bulletin 64 [1978]: 274-75.)

7. The effect of this subparagraph is that a decision on tenure, favorable or unfavorable, must be made at least twelve months prior to the completion of the probationary period. If the decision is negative, the appointment for the following year becomes a terminal one. If the decision is affirmative, the provisions in the 1940 Statement with respect to the termination of services of teachers or investigators after the expiration of a probationary period should apply from the date when the favorable decision is made.

The general principle of notice contained in this paragraph is developed with greater specificity in the Standards for Notice of Nonreappointment, endorsed by the Fiftieth Annual Meeting of the American Association of University Professors (1964). These standards are:

Notice of nonreappointment, or of intention not to recommend reappointment to the governing board, should be given in writing in accordance with the following standards:

> 1. Not later than March 1 of the first academic year of service, if the appointment expires at the end of that year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination.
>
> 2. Not later than December 15 of the second academic year of service, if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination.
>
> 3. At least twelve months before the expiration of an appointment after two or more years in the institution.

Other obligations, both of institutions and of individuals, are described in the Statement on Recruitment and Resignation of Faculty Members, as endorsed by the Association of American Colleges and the American Association of University Professors in 1961.

8. The freedom of probationary teachers is enhanced by the establishment of a regular procedure for the periodic evaluation and assessment of the teacher's academic performance during probationary status. Provision should be made for regularized procedures for the consideration of complaints by probationary teachers that their academic freedom has been violated. One suggested procedure to serve these purposes is contained in the Recommended Institutional Regulations on Academic Freedom and Tenure, prepared by the American Association of University Professors.

9. A further specification of the academic due process to which the teacher is entitled under this paragraph is contained in the Statement on Procedural Standards in Faculty Dismissal Proceedings, jointly approved by the American Association of University Professors and the Association of American Colleges in 1958. This interpretive document deals with the issue of suspension, about which the 1940 Statement is silent.

The 1958 Statement provides: "Suspension of the faculty member during he proceedings is justified only if immediate harm to the faculty member or others is threatened by the faculty member's continuance. Unless legal considerations forbid, any such suspension should be with pay." A suspension which is not followed by either reinstatement or the opportunity for a hearing is in effect a summary dismissal in violation of academic due process.

The concept of "moral turpitude" identifies the exceptional case in which the professor may be denied a year's teaching or pay in whole or in part. The statement applies to that kind of behavior which goes beyond simply warranting discharge and is so utterly blameworthy as to make it inappropriate to require the offering of a year's teaching or pay. The standard is not that the moral sensibilities of persons in the particular community have been affronted. The standard is behavior that would evoke condemnation by the academic community generally.

APPENDIX 2

Resolution on Academic freedom and tenure
Adopted by the Academic Senate for
California Community Colleges
Spring 1986

Be it further resolved that the Joint Legislative Committee consider the following reasons for continually protecting and sustaining tenure for faculty members in all segments of higher education in California:

1. Tenure is essential to the protection and preservation of academic freedom - the freedom to teach and the freedom to learn - and is thereby indispensable to the success of higher education in fulfilling its obligations to its students and to society.

2. Tenure enables teachers to dare to say what they think, to dare to talk with each other as a community of scholars and to dare to bring into discussion views that may differ from those that currently prevail, and tenure thereby vitally contributes to the advancement of truth.

3. Tenure is essential for academic due process in colleges and universities, and thereby for effective and equitable procedures for faculty discipline and termination.

4. Low status, low salaries, and long hours do not attract quality teachers; but tenure, which promotes academic freedom and employment security, is a major means of attracting men and women of ability into the teaching profession, and thereby also contributing to faculty recruitment.

5. Tenure protects teachers against fear of reprisal, intimidation, and enforced conformity, and therefore is instrumental to free exchange of ideas, innovation, and openness to creative change.

6. In the absence of tenure, the temptation and likelihood exists, especially in times of financial crisis, of terminating teachers regardless of their experience and ability, merely because they are the highest paid, thereby reducing faculty quality and teaching excellence.

7. Instituting "rolling" contracts as an alternative to tenure obviously undermines tenure; this, in turn, leaves academic freedom, due process, and employment security less protected, and thereby diminishes achievement of the Commission's stated goals and higher education's contribution to the public good.

APPENDIX 3

Sample District Policy on Academic Freedom
West Valley-Mission Community College District

BOARD AGENDA ITEM
POLICY 4.9, DISTRICT ACADEMIC FREEDOM

BACKGROUND:

The District has apparently never had a Board Policy on Academic Freedom., although there have been various references to Academic Freedom in contract language To correct this somewhat embarrassing oversight the District Academic Senate formed a subcommittee to research the issue and to produce a document which could be recommended to the Board of Trustees.

The members of the committee were as follows:
Pat Andrews WVC
Moises Roizen WVC
Alan Chandler MC
James Van Tassel MC (*on sabbatical and did not participate)

The committee essentially recommended the use of the historic American Association of University Professors (AAUP) statement on Academic Freedom. With the exception of the first paragraph defining the scope of its coverage at West-Valley-Mission Community College District the result is an almost verbatim re-write of the California State University (CSU) system's statement with the name--West Valley-Mission Community College District --inserted where needed. (Note: The CSU statement on Academic Freedom is, in turn, substantially based on the 1940 AAUP Statement of Principles of Academic Freedom and Tenure, while their statement on Professional Ethics is an exact transcription of the 1966 AAUP Statement on Professional Ethics.

The proposed policy was approved by both College Academic Senates and has since been sent for consultation with classified and student groups. It was approved by Mission College Council on 22 February and by West Valley College Council on 16 March.

RECOMMENDATION:
That the Board of Trustees approve and adopt the District Academic Freedom Policy as a first reading.

4.9 ACADEMIC FREEDOM
Academic freedom in the pursuit and dissemination of knowledge through all media shall be maintained at the West Valley-Mission Community College District. Such freedom shall be recognized as a right of all members of the faculty, whether of tenure or non-tenure rank, of all administrative officers and of all students.

4.9.1 Academic Freedom and the Common Good
Academic institutions exist for the transmission of knowledge, the pursuit of truth, the development of students, and the general well being of society. Free inquiry and free expression are indispensable to the attainment of these goals. Recognizing this, the West Valley-Mission Community College District exists to promote these purposes and the common good of the citizens of California and mankind and not to promote the welfare of an individual faculty, an individual department or college, or the institution as a whole.

The freedom of faculty to inquire, to teach, to speak and to publish contributes much more to the welfare of their fellow citizens outside the College than to their own good or the good of the campus. As a previous Chancellor of the California State University system, Glenn Dumke, said, the academic community has as one of its oldest functions to serve as "one of the consciences of society." The academic community "is a questioner, a worrier, a critic, and idealist, seeking a better way toward human aspiration and fulfillment." Academic freedom and tenure are essential for excellence in education and, moreover, exist so that society may have the benefits of objective and independent criticism, and honest answers to scientific, social and artistic questions that might otherwise be withheld for fear of offending an influential social group or transient social attitude.

On the most practical level, many of the technological innovations of great material value to our society are the results of scientific research that is most effectively carried out in an atmosphere of complete academic freedom. On less tangible levels, the social benefits of academic freedom are not so easily identified and accepted, but they are no less real than the material benefits. Free research, teaching, and discussion in political, social and cultural affairs lead to political, social and cultural advances just as clearly as freedom in the sciences leads to advances in science and technology. Freedom in science, indeed, cannot long endure the denial of political, social and cultural freedom.

Society is best served when the teacher and scholar feel free to criticize and advocate change in any theories and beliefs, however widely held, and in any existing social, political and economic institutions. It is not easy for faculty to dissent and to advocate unpopular ideas; it is almost always to their personal disadvantage to do so. But it is to the advantage of society to encourage them; only thus will society be aware of the full range of social, political and cultural choices available to it; and only thus can the democratic ideal be fulfilled.

4.9.2 Academic Freedom and Responsibility

It is recognized that faculty in the West Valley-Mission Community College District must defend and protect academic freedom – however unpleasant and costly to them personally. Earlier citizens of the State of California wisely established institutions of higher education in which the principles of academic freedom were respected. It is the responsibility of all faculty to conserve the integrity of these institutions at whatever sacrifice to their personal tranquillity.

West Valley-Mission Community College District faculty have these further and related responsibilities: to maintain themselves as experts in their fields of competence by study, research and, where appropriate, publication; to diffuse knowledge and, if possible, to encourage creativity by their teaching; to defend their colleagues and their institution against any threats to the exercise of their responsibilities, whether from within or without the West Valley-Mission Community College District.

From time to time in the history of higher education in California and elsewhere, advocates of particular social, moral, political or aesthetic positions attempt by violence, lawlessness or political and social pressures to interfere with academic freedom. At such times, West Valley-Mission Community College District faculty have a special responsibility to see that their own actions do not interfere with the freedom of others. They have further responsibility to insist that their institution does not yield to ephemeral passion or heavy community pressures to take hasty actions that may infringe on freedom of expression.

4.9.3 Professional Ethics

Faculty, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end, faculty devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although faculty may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry.

Faculty encourage the free pursuit of learning in their students. They hold before them the best scholarly and ethical standards of their discipline. Faculty demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Faculty make every reasonable effort to foster honest academic conduct and to assure that their evaluations of students reflect each student's true merit. They respect the confidential nature of the relationship between faculty and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.

4.9.4 Obligations

As colleagues, faculty have obligations that derive from common membership in the community of scholars. Faculty do not discriminate against or harass colleagues. They respect and defend the free inquiry of associates. In the exchange of criticism and ideas, faculty show due respect for the opinions of others. Faculty acknowledge academic debt and strive to be objective in their professional judgment of colleagues. Faculty accept their share of faculty responsibilities for the governance of their institution.

As members of an academic institution, faculty seek above all to be effective teachers and scholars. Although faculty observe the stated regulations of the institution, provided the regulations do not contravene academic freedom, they maintain their right to criticize and seek revision. Faculty give due regard to their paramount responsibilities within their institution in determining the amount and character of work done outside it. When considering the interruption or termination of their service, faculty recognize the effect of the decision upon the program of the institution and give due notice of their intentions.

As members of their community, faculty have the rights and obligations of other citizens. Faculty measure the urgency of these obligations in the light of their responsibilities to their subject, to their students, to their professions, and to their institutions. When they speak or act as private persons they avoid creating the impression of speaking or acting for their college or university. As citizens engaged in a profession that depends upon freedom for its health and integrity, faculty have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

Acknowledgment:

With the exception of the first paragraph defining the scope of its coverage at West Valley-Mission Community College District, this document is an almost verbatim rewriting of the California State University system's statement on Academic Freedom, with the name, "West Valley-Mission Community College District" inserted where needed. The CSU statement on Academic Freedom is, in turn, substantially based on the 1940 AAUP Statement of Principles of Academic Freedom and Tenure, while their statement on Professional Ethics is an exact transcription of the 1966 AAUP Statement on Professional Ethics.

APPENDIX 4

N.E.A. Policy Statement

Higher Education Reform: Defining Our Stance

"In 1986, the N.E.A. Executive Committee endorsed the report of an advisory group on reform in higher education. The group reviewed basic N.E.A. policies in light of questions and concerns raised by the reform movement.

The policy statements that follow are considered to be an elaboration of existing N.E.A. policy resolutions as adopted by the N.E.A. Representative Assembly over the years."

1. Academic and Intellectual Freedom and Tenure in Higher Education

The National Education Association affirms that academic and intellectual freedom in institutions of higher education are best protected and promoted by tenure, academic due process, and faculty self-governance. Such protection is enhanced by including--where possible--these items in a collectively bargained contract enforced by binding arbitration.

N.E.A. is concerned that certain invidious patterns of hiring and retaining academic faculty are undermining tenure. Examples of these patterns and practices include: the widespread and excessive use of part-time faculty, misuse of temporary contracts, renewable term ("rolling") contracts, excessive probationary periods, tenure quotas, and post-tenure review procedures. All of these practices threaten the job security vital to academic and intellectual freedom.

N.E.A. is especially concerned that these practices are often the result, directly or indirectly, of improper governmental intervention. N.E.A. believes that the studies associated with the current attempts to reform higher education, especially at the state level, are to often insensitive to academic and intellectual freedom and tenure. According to the U.S. Supreme Court, academic freedom in institutions of higher education is essential to preserving American democracy. N.E.A. considers intellectual freedom also as a basic right of all citizens, teachers included. In the terms of the 1940 "Statement on Principles of Academic Freedom and Tenure" (endorsed by more than 100 professional and scholarly associations, including the NEA's higher education department in 1950, reaffirmed in 1985) :

Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends on the free search for truth and its free exposition.

Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher and of the student in freedom in learning.

Academic freedom also includes the rights of scholars to publish freely the results of their research, to participate in the governance of the institution, advance in their profession without fear of discrimination and, when necessary, to criticize administrators, trustees, and other public officials without recrimination. College and university faculty and staff should have rights identical to other citizens, including the right to assist colleagues whose academic freedom and professional rights have been violated. Tenure, academic due process, and faculty self-governance promote stability, continuity, and a scholarly environment on campus. These conditions are critical to protecting academic and intellectual freedom, and to enhancing higher education's ability to recruit into teaching individuals who might choose a more profitable career elsewhere.

Tenured status is usually earned after a probationary period not to exceed seven years. Practices vary, but most faculty members are awarded tenure only after a rigorous peer evaluation of their teaching, research, and service on specific criteria properly adopted by their programs or department, and general criteria adopted by the faculty of the institution. During the probationary period, untenured faculty members should enjoy the same degree of academic and intellectual freedom as their tenured colleagues, and be made aware of the specific and general criteria to be applied to their evaluation for promotion and tenure. In this system, any attempt to legislate tenure criteria for an entire state would be inappropriate and counterproductive. Tenure may be defined as the expectation of continuing, indefinite, or permanent appointment in the institution. The courts generally recognize tenure as a right of property, that under the Fourteenth Amendment cannot be alienated from a teacher except by academic due process appropriate to the institution and for just cause. Academic due process is usually a part of a system of faculty self-governance and evaluation that has been established by faculty by-laws, constitutions, and collective bargaining contracts. The courts have generally accepted a judicial form of due process similar in most respects to legal proceedings before a court of law. In such a proceeding the burden is clearly on the administration to prove beyond reasonable doubt that a tenured faculty member should be dismissed or suffer serious sanction for incompetency or other just cause. Tenure and academic due process--when accompanied by a proper system of faculty self-governance--protect the rights of all faculty members, tenured or untenured. Tenure does not necessarily impose a strict seniority system on a college or university to be followed if financial exigency requires a reduction in the size of the faculty and academic staff, unless the faculty and administration agree to such a system. The tenure system should accommodate affirmative action goals along with the need for academic integrity of programs and departments. Academic appeals and grievance procedures should exist to eliminate capricious and arbitrary decisions, as faculty members exercise the right to challenge tenure and promotion decisions allegedly based on discrimination. Today, N.E.A. finds that the excessive use of part-time faculty members undermines academic and intellectual freedom, tenure, and educational quality. These faculty members are obliged frequently to work for substandard compensation, without job security or recourse to grievance procedures, under conditions that often place at risk the value of the education being provided to their students. N.E.A. reaffirms its previous resolution (F-41) "Misuse of Part-time Faculty," while linking this problem to other problems that confront higher education. N.E.A. also views the excessive use of academic appointments on temporary, non-tenure track, and/or multiple long-term contracts as undermining academic and intellectual freedom, tenure, and the quality of our educational institutions. Teachers and scholars who are subjected to lengthy or continuous probationary status are less likely ever to exercise freely their rights as citizens and as teachers.

N.E.A. also sees tenure quotas (arbitrary limits on the percentage of tenured faculty) as having a negative effect on the academic environment of an institution. Tenure quotas, disguised as higher standards for earning tenure, tend to have a debilitating effect on the entire faculty. N.E.A. supports all proper efforts for an institution to seek and maintain academic excellence, but it decries negative decisions on tenure motivated primarily by a desire to retain budgetary "flexibility." Such policies damage the morale of the continuing faculty as surely as they destroy the ideals and aspirations of their victims. Academic excellence and rejuvenation of the faculty may be enhanced by a variety of means without weakening the tenure system. Faculty development plans designed to encourage professional growth should be encouraged. Institutions may develop, with appropriate faculty participation, early retirement plans. Institutions may implement programs to retrain faculty members to teach in other areas or to fulfill other important roles at their institutions. These options should be implemented only through joint action between the appropriate representative of the faculty, and the governing board.

N.E.A. encourages faculties, administrators, students, and governing boards to work within the current tenure system when confronting the challenges, opportunities, and adversities of this and future decades. To do so will require leadership and creativity throughout all postsecondary educational institutions, by all concerned.

THE ACADEMIC SENATE FOR CALIFORNIA COMMUNITY COLLEGES
910 K Street, Suite 300, Sacramento, CA 95814
(916) 445-4753 Fax: (916) 323-9867 E-Mail: asccc@ix.netcom.com
Web Site: http://www.academicsenate.cc.ca.us